

ESTTA Tracking number: **ESTTA659561**

Filing date: **03/06/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                           |  |
|---------------------------|--|
| Proceeding                | 91214649   |
| Party                     | Defendant<br>Benny Hodge   |
| Correspondence<br>Address | BENNY HODGE<br>122 COUNTRY CLUB DR<br>GREENWOOD, MS 38930-6802<br>UNITED STATES<br>bennyhodge25@yahoo.com              |
| Submission                | Other Motions/Papers   |
| Filer's Name              | BENNY HODGE  |
| Filer's e-mail            | bennyhodge25@yahoo.com   |
| Signature                 | /BENNY HODGE/  |
| Date                      | 03/06/2015   |
| Attachments               | APPLICANT'S CORRECTION OF SCRIVENER'S ERROR.pdf(283091 bytes )<br>APPLICANT'S supplemental responce.pdf(424651 bytes ) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Mark: BENNY HUNNA

Serial No: 85/920,599

Filing Date: May 1, 2013

NOODLE TIME, INC. vs. BENNY HODGE

Opposition No: 91214649

APPLICANT'S MOTION TO CORRECT SCRIVENER'S ERROR IN  
APPLICANT'S SUPPLEMENTAL RESPONSES

INTRODUCTION

Applicant, Benny Hodge, hereby respectfully submits this APPLICANT'S MOTION TO CORRECT SCRIVENER'S ERROR IN APPLICANT'S SUPPLEMENTAL RESPONSES. APPLICANT served SUPPLEMENT RESPONSES on Opposer on December 25, 2014 and noticed a typographical error in the document.

CORRECTION OF SCRIVENER'S ERROR IN APPLICANT'S  
SUPPLEMENTAL RESPONSE IN NO. 4 OF REQUEST FOR  
DOCUMENT PRODUCTION

Applicant has made a typographical error to his Facebook and Twitter web page by placing commas at the end of the websites to separate them and is submitting the following respectfully as corrections to the typing error. Applicant made a typing error on one letter in his Youtube webpage

address typing a “w” instead of an “s” and is submitting the following respectfully as corrections to the typing error.

<https://www.youtube.com/channel/UCrTgkOargZoEXYzsomfJ3dA>

<https://www.facebook.com/benny.hunna1>

<https://twitter.com/h2hunna>

Attached to this is a copy of the Supplemental Responses served to Opposer on December 25, 2014 showing the “scrivener’s error” in No. 4 of Applicant’s Supplemental Responses To Request For Document Production which was mistakenly titled “DOCUMENT’S REQUEST ANSWERS AND REASON TO RECONSIDER”.

## CONCLUSION

Applicant respectfully request that the Board GRANTS APPLICANT’S MOTION TO CORRECT SCRIVENER’S ERROR IN APPLICANT’S SUPPLEMENTAL RESPONSES.

Dated: March 6, 2015

 Recoverable Signature

X *Benny Hodge*

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Benny Hodge  
Defendent  
Signed by: Benny Hodge

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Benny Hodge

122 Country Club Dr.

Greenwood, MS 38930

Tel: (662)897-8525

Email: [bennyhodge25@yahoo.com](mailto:bennyhodge25@yahoo.com)

## CERTIFICATE OF SERVICE

**I HEREBY CERTIFY** that the foregoing APPLICANT'S MOTION TO CORRECT SCRIVENER'S ERROR IN APPLICANT'S SUPPLEMENTAL RESPONSES has been served on Opposers in the following manner:

BY E-MAIL

Janet C. Moreira

MAVEN INTELLECTUAL PROPERTY

5801 Biscayne Blvd.

Miami, Florida 33137

[janet@maveniplaw.com](mailto:janet@maveniplaw.com)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Mark: BENNY HUNNA

Serial No: 85/920,599

Filing date: May 01, 2013

Publication Date: October 08, 2013

NOODLE TIME, INC. vs. BENNY HODGE

Opposition No. 91214649

**APPLICANT'S SUPPLEMENTAL ANSWERS TO FIRST SET OF INTERROGATORIES**  
**AND PRODUCTION OF DOCUMENT REQUEST**

Pursuant to Rule 26, Rule 33 and Rule 37 CFR Section 2.120, Applicant, BENNY HODGE respectfully submits the following Supplemental Answers To First Set Of Interrogatories And Production Of Document Request.

**INTERROGATORIES AND SUPPLEMENTAL ANSWERS**

1. Identify with particularity each specific product of service (not just the general description as set forth by Applicant in its federal application) which Applicant's Subject Mark is used, intended to be used, associated with or alluded to be associated with or alluded to be associated with.

Answer: The Applicant's Subject Mark has not been used. The Applicant's Subject Mark is intended to be used for Entertainment services in the nature of live musical performances, International Class Code: 041, US Class Code: 100, 101, and 107, Primary Class: Education; providing of training; entertainment; sporting and cultural activities.



**2.** State the date Applicant claims the date of first use of the Subject Mark for each product or service identified in Interrogatory No. 1.

Answer: Applicant has not made first use of Subject Mark anywhere or made first use of Subject Mark in commerce for each product or service identified In Interrogatory No. 1.

**3.** Describe in full and complete detail what efforts, if any, Applicant, or anyone connected to Applicant, has made use of the Subject Mark.

Answer: Applicant or anyone connected to Applicant has made no efforts to use the Subject Mark in commerce.

**5.** State Applicant's yearly dollar volume of sales for every year since first use of each product of service identified in Interrogatory No. 1.

Answer: Applicant has not made first use of Subject Mark in commerce. Applicant states that Applicant's yearly dollar volume of sales is zero dollars.

**6.** State Applicant's yearly expenditures for every year within the last five years with respect to the advertising and marketing of products and services identified in Interrogatory No. 1.

Answer: Applicant's yearly expenditures with respect to the advertising and marketing of products and services indetified in interrogatory No. 1 are zero dollars.

**7.** Identify all types of media (including, but not limited to, newspapers, magazines, trade journals, direct mail advertising, radio, television, and the Internet) in which Applicant has advertised and intends to advertise each product and service offered or to be offered in connection with the Subject Mark.

Answer: Applicant as of now advertised and intends to advertise each product and services offered or to be offered in connection with the Subject Mark via internet.

**8.** Identify each person who has, claims to have, or whom you claim or believe may have knowledge, documents, or information pertaining to any fact alleged in the pleadings filed in this matter or any fact underlying the subject matter of this dispute and state the specific nature and substance of the knowledge, documents, or information you believe that each person identified in response to this request has or may have and identify all documents responsive to this interrogatory to this request.

Answer: Applicant/Benny Hodge and Opposer/Noodle Time Inc., to the best of Applicants knowledge, has knowledge, documents, or information pertaining to any fact alleged in the pleadings filed in this matter. All other persons with knowledge which are not specific individuals are named with address, phone numbers and subject information which was served to Opposer in Applicant's Initial Disclosure.

**11.** Identify each geographic area and location in the United States in which Applicant, or others under the authority of applicant has advertised or promoted the products and services connected with the Subject Mark. With respect to each advertisement or promotion identify:

- (a) The date of the advertisement;
- (b) If a printed advertisement, the name of the publication in which the advertisement appeared;
- (c) If a billboard, the street address at which the billboard appeared;
- (d) If a broadcast television or radio advertisement, the name of the station, whether radio or television, upon which the advertisement was broadcast, and
- (e) Identify all documents relating to such advertising or promotion.

Answer: Applicant has advertised and promoted “Benny Hunna” by sharing and posting Youtube videos of Benny Hunna via the internet and social media daily.

### **DOCUMENT REQUESTS ANSWERS AND REASON TO RECONSIDER**

1. All documents referring to or evidencing the date you first used the Subject Mark.

ANSWER: Applicant does not have documents referring to or evidencing the date of first use.

The Subject Mark has not been used in commerce.

2. All document referring to or evidencing the date of your first sale of any items containing the Subject Mark.

ANSWER: Applicant does not have documents referring to or evidencing the date of Applicant’s first sale of any items containing the Subject Mark. The Subject Mark has no sales.

3. All documents sufficient to identify all products and/or services using the Subject Mark.

ANSWERS: The Subject Mark is intended to be used for Entertainment services in the nature of live musical performance. Opposer's has documents of Applicants intent to use application.

4. All documents sufficient to identify all trade channels through which you sell, advertise, promote or offer to sell, advertise or promote any products and/or services using the Subject Mark.

ANSWERS: The Subject Mark has no sales and is not offered to be sold. The Subject Mark is promoted and advertised at URL

<https://www.youtube.com/channel/UCrTqkOarqZoEXYzwomfJ3dA>

<https://www.facebook.com/benny.hunna1>

<https://www.twitter.com/H2HUNNA>

[https://www.linkedin.com/profile/view?id=347046776&trk=nav\\_responsive\\_tab\\_profile](https://www.linkedin.com/profile/view?id=347046776&trk=nav_responsive_tab_profile)

9. All documents evidencing or relating to any communication between you and ABC News.

ANSWER: There are no documents evidencing or relating to any "communication" between Applicant and ABC News. All documents were given to Opposer pertaining to ABC News that were available to Applicant in a URL in Initial Disclosures.

10. All documents evidencing or relating to any communication between you and Interscope Records.

ANSWER: There are no documents evidencing or relating to any “communication” between Applicant and Interscope Records. All documents were given to Opposer pertaining to Interscope Records that were available to Applicant in a URL in Initial Disclosures.

11. All documents evidencing or relating to any communication between you and “Chief Keef”.

ANSWER: There are no documents evidencing or relating to any “communication” between Applicant and “Chief Keef”. All document were given to Opposer pertaining to Chief Keef that were available to Applicant in a URL in Initial Disclosures.

12. All documents evidencing or relating to the copyright registration of “3Hunna by Chief Keef of Interscope Records.”

ANSWER: All documents were given to Opposer in a URL in the Applicant’s Initial Disclosures.

14. All documents sufficient to identify all persons with knowledge of information and/or document supporting or contradicting the factual allegations of the Opposition.

ANSWER: Applicant has no documents sufficient to identify all persons with knowledge of information and/or documents supporting or contradicting any allegations of the Opposition..

15. All documents referring or relating to Opposer and/or Opposer’s Marks.

ANSWER: To the best of Applicant’s knowledge Opposer is in possession of all document’s referring or relating to Opposer’s Mark and Applicant only possesses documents Opposer has made available in the foregoing Opposition.

Date: December 25, 2014

12/25/2014

**X BENNY HODGE**

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Benny Hodge  
Defendant

Benny Hodge

122 Country Club Dr.

Greenwood, MS 38930

Tel: (662)897-8525

E-mail: [bennyhodge25@yahoo.com](mailto:bennyhodge25@yahoo.com)

### **CERTIFICATE OF SERVICE**

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By E-Mail

Janet C. Moreira

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